



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-7000

OFFICE OF THE ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

DATE: May 20, 2002

MEMORANDUM FOR: David Vos, Director, Office of HIV/AIDS, DEH

FROM: William H. Eargle, Jr., Comptroller, Office of Community Planning and Development,
D /S/

SUBJECT: Eligibility of Housing Opportunities for Persons With AIDS (HOPWA) Working
Capital Advance

Rusty Bennett of your staff has asked my Office for guidance to respond to a question raised by the Iowa Finance Authority (IFA) regarding advance payments. In correspondence to him dated May 14, 2002, the IFA requests guidance from HUD on the eligibility of providing a one-time working capital advance to six non-profit project sponsors to cover a three-month period to enable them to carry out two HOPWA activities eligible under [24 CFR 574.300\(b\)\(5\)](#) [project- or tenant-based rental assistance], and (b)(6) [short-term rent, mortgage, and utility payments to prevent the homelessness of tenants or mortgagors of a dwelling]. The IFA was awarded funds from HUD, under a HOPWA competition, to carry out a Long Term Comprehensive Strategy Grant. As part of this program, the IFA would provide HOPWA funds to private non-profit sponsors to carry out eligible HOPWA activities. Some of these non-profit organizations do not have sufficient funds on hand to start implementing a short-term and long-term rental assistance program.

HOPWA grantees which are governmental entities are subject to the provisions of 24 CFR Part 85 per the HOPWA regulations at [24 CFR 574.605](#). Private non-profits receiving HOPWA funds are required to comply with OMB Circular A-110 under this same regulatory provision. A-110 has been codified at 24 CFR Part 84, subsequent to the publication of the HOPWA regulations. Advances and working capital advances to grantees are permissible under 24 CFR 85.21(c) and (e), respectively. Advances to grantees and subgrantees under 24 CFR 85.21(c) are allowable provided the entities demonstrate the willingness and ability to minimize the time elapsing between the transfer of funds and their disbursement. Working capital advances under 24 CFR 85.21(e) are only permissible if the criteria under 85.21(c) cannot be met and the Federal agency determines that reimbursement is not feasible because the grantee lacks sufficient working capital. Subpart C of OMB Circular A-110, [§ 101.22\(b\)](#) permits advances to recipients, provided they meet requirements largely similar to those included in 85.21(c), although the Circular specifies written procedures for minimizing the time between transfer of funds and disbursement.

In the instant case, a three-month working capital advance under the provisions of 85.21(e) is not permissible because HUD lacks information to support a determination that the IFA does not have sufficient working capital to assist the 6 nonprofits. Furthermore, the IFA's correspondence did not address the other requirement of this regulatory provision, that it cannot meet the criteria of 85.21(c). In addition, payment methods under both 24 CFR 85.21 and OMB Circular A-110 were written to comply with the Treasury regulations at 31 CFR Part 205 which state, in part, that "Cash advances...shall be limited to the minimum amounts needed and shall be timed to be in accord only with the actual, immediate cash requirements...in carrying out a program or project." [See 31 CFR 205.20(a)]. OMB Circular A-110, Subpart C ___.22(b), mirrors this language. A three-month cash advance cannot reasonably be interpreted to meet this requirement.

If the IFA meets the criteria of 85.21(c) and the non-profits can comply with the payment requirements of OMB Circular A-110, the IFA can provide one-month advances to the 6 non-profits to carry out the two HOPWA activities eligible under [24 CFR 574.300\(b\)\(5\)](#) and (6). The IFA, and subsequently the non-profits, might therefore need to request funds for three separate advances, one per month. To provide these advances, the IFA should have procedures in place to minimize the time elapsing between its receipt of the funds and their transfer to, and disbursement by, the subgrantees. The non-profits would need to demonstrate to the IFA their ability to comply with the requirements of OMB Circular A-110, Subpart C, ___.21 and 22(b). It is recommended that, if the IFA hasn't covered this already, its' contracts with the non-profits should include the IFA's expectations regarding the non-profits' demonstration of compliance with the applicable requirements, including the regulations governing interest on advances [see 24 CFR 85.21(i) and OMB Circular A-110, Subpart C, ___.22(k)].

Please note that I am not in a position to respond to the IFA's question in its letter on other HOPWA programs that have established working capital advances; therefore, this guidance does not address this question. Since the correspondence was sent to your office, I would recommend that you provide a written response to the IFA and notify the Field Office of this determination. I would also appreciate being copied on your response as well.

If you have any questions or need additional clarification, please do not hesitate to contact me or Deirdre Maguire-Zinni on my staff.

cc: Lynn Morgan, Attorney-Advisor, Community Development Division, Office of General Counsel, CDD